11. PRCF Report to GOAC: 10/30/15

Wednesday, January 13, 2016
8:59 AM

The Petroleum Release Compensation Fund

"An Evolution of Change to Meet the Needs of South Dakota"

The Beginning

1984 - Congress enacted legislation directing EPA to develop rules for underground storage tanks holding petroleum products and require tank owners to have $1 million in financial assurance

1986 – Leak from Williams Tank Farm in Sioux Falls closes homes, Hayward School, and threatens residential wells

1987 – Governor Mickelson directs DENR to draft state "Superfund" bill; petroleum industry decides to establish a separate fund for just petroleum cleanups

1988 – State legislature passed Petroleum Release Compensation Fund to comply with federal rules by:

- Providing financial assistance for cleanups
- Providing $1 million insurance coverage to tank owners

Petroleum Release Compensation Fund
"Financial Assurance"

- Federal requirements are that tank owners must have $1,000,000 financial assurance coverage per eligible occurrence (a single site may have more than one occurrence); the state requires a $10,000 deductible that applies to each occurrence
- The Petroleum Release Compensation Fund serves as the insurer - in 1991, EPA notified the state that if the Fund drops below $2 million, EPA will no longer recognize the Fund as the state underground tank insurer; $2 million minimum balance is equivalent to $3.5 million today

Petroleum Release Compensation Fund
"Financial Assurance"

The Petroleum Release Compensation Fund is providing coverage to:

- 3,005 underground tanks at 1,039 regulated sites
- 3,103 aboveground tanks at 923 regulated sites
- Numerous unregulated petroleum tanks (farm, ranch, school, airports, highway shops, heating oil, generators and mobile tanks)
- Waste oil tanks removed under the Abandoned Tank Project

Evolution of Petroleum Release Compensation and Tank Inspection Fee

- In 1988, the Legislature established the tank inspection fee at a rate of $10 per 1,000 gallons (essentially equals one cent per gallon) with 100% of the fee deposited in the Petroleum Release Compensation Fund
- With the support of industry, the fee was imposed on all petroleum products at the wholesale level received in the state by licensed distributors
- In 1991, Legislative Audit determined the fund would have a negative cash balance by 1993 due to heavy demand on the Fund

Evolution of Petroleum Release Compensation and Tank Inspection Fee

- In 1993, the Legislature raised the fee to $20 per 1,000 gallons (equal to two cents per gallon) with 60% of the fee deposited in the Petroleum Compensation Fund and 40% in the pass-through Capital Construction Fund
- In 2000, the Legislature made costs to pull old abandoned petroleum tanks eligible under the Fund
- In 2002, the Legislature revised the distribution of revenue so the Petroleum Release Fund receives 10.65%; the remainder is split between the Ethanol Fuel Fund and the Capital Construction Fund with funds passed through to the Water and Environment Fund and State Highway Fund (see page 4 of LRC whitepaper)

Federal Storage Tank Requirements Continue to Change Forcing the Fund to Continue to Evolve

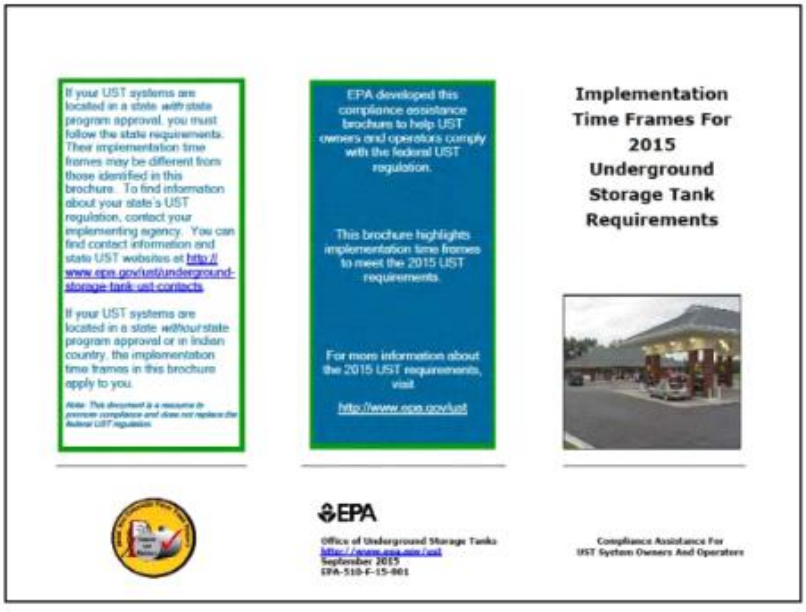
- The 2005 federal Energy Policy Act included a requirement that owners and operators of regulated tanks be trained to reduce risk of spills and leaks
- Beginning in September 2010, DENR used the Fund to contract with the South Dakota Petroleum and Propane Marketers Association to provide training
- 1,651 underground storage tank owners and operators, consultants, state inspectors, and other interested parties have received training

Federal Storage Tank Requirements Continue to Change Forcing the Fund to Continue to Evolve

- EPA awards DENR Leaking Underground Trust Fund grants to clean up petroleum spills where the responsible party will not or can not clean them up and then seek repayment
- After years of using the federal funds for cleanups, in 2014, EPA mandated that DENR recover more money
- Rather than require DENR to take legal action against responsible parties who would then turn around and seek reimbursement from the Fund, EPA allowed DENR to streamline the process and transfer $1,990,000 in FY 14 and $27,500 in FY 15 from the Fund to the Underground Tank Subfund of the Regulated Substance Response Fund

Federal Storage Tank Requirements Continue to Change Forcing the Fund to Continue to Evolve

- ***In 2015, EPA promulgated new federal tank system requirements:***
  - State has 3 years to promulgate rules
  - Systems then have 3 years to comply
    - New secondary containment rules
    - More frequent system checks
    - Previously deferred tanks now regulated
    - Lined tanks that fail inspection to be taken out of service



Implementation Time Frames For 2015 UST Requirements

2015 Requirement	Implementation Time Frame
Flow restrictors in vent lines may no longer be used to meet the overfill prevention requirement at new installations and when an existing flow restrictor is replaced	Owners and operators must begin meeting these requirements after October 13, 2015
Testing following a repair	
Closure of internally lined tanks that fail the internal lining inspection and cannot be repaired according to a code of practice	
Notification of ownership changes	
Demonstrating compatibility	
For airport hydrant fuel distribution systems and UST systems with field-constructed tanks: • Notification and financial responsibility[1] • Release reporting • Closure	
Secondary containment and interstitial monitoring for new and replaced tanks and piping	Owners and operators must begin meeting these requirements after April 11, 2016
Under-dispenser containment for new dispenser systems	
Operator training	Owners and operators must begin meeting these requirements on October 13, 2018
Site assessment records for groundwater and vapor monitoring	
For previously deferred UST systems:[2] • Release detection for UST systems that store fuel solely for use by emergency power generators • Subpart K (except notification, financial responsibility, release reporting, and closure) for airport hydrant fuel distribution systems and UST systems with field-constructed tanks	
Spill prevention equipment testing[3]	Owners and operators must conduct the first test or inspection by October 13, 2018
Overfill prevention equipment inspections[3]	
Containment sump testing for sumps used for piping interstitial monitoring[3]	
Release detection equipment testing	
Walkthrough inspections	

[1]Note that EPA is requiring owners and operators to also submit a one-time notification of existence for these UST systems by October 13, 2018. Owners and operators must demonstrate financial responsibility when they submit the one-time notification form.
[2]UST systems installed after October 13, 2015 must meet these requirements at installation.

Petroleum Release Compensation Fund

"Financial Data"

- **Recent Revenues other than the Tank Fee**
  - Chevron double-dipping settlement…… $703,125
- **Administrative Costs**
  - FY 16 Budget Request for 5 FTE…… $454,863
- **Payments to Tank Owners under Regular Program**
  - Average payment per site…… $51,217
  - Claims during last quarter (56 payments)….. $191,601
  - Regular program payments since 1988…… $77,400,000
- **Abandoned Tank Removal Costs**
  - Average cost per site (Last 3-years)…… $5,500
  - Abandoned tank costs since 2000…… $10,100,000
- **June 30,2015 End-of-Year Balance**…… $4,749,291

Petroleum Release Compensation Fund Third Quarter 2015 Statistics
"Site Data"

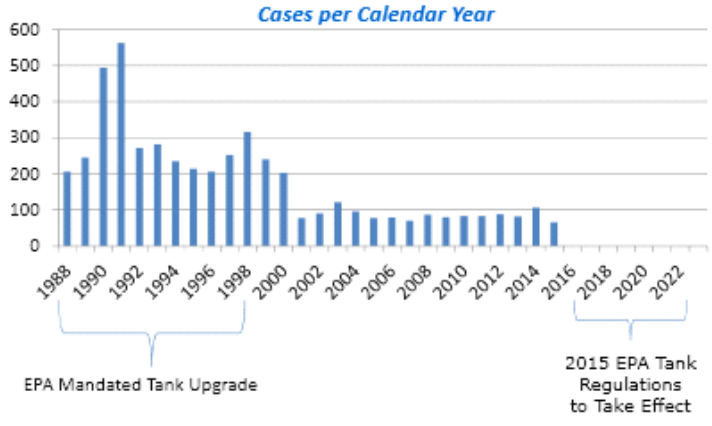
➢ **Regular Reimbursement Program**

- Closed – active cases..... 46 sites
- Closed – inactive cases..... 1,473 sites
- Closed – no payment cases..... 2,408 sites
- Active cases in regular program..... 43 sites
- Active cases in monitoring phase..... 25 sites
- Pending cases (spill report not yet filed)..... 3 sites

➢ **Abandoned Tank Removal Project**

- Total applications; 249 withdrawn..... 3,377 sites
- Completed sites (tanks removed)..... 3,088 sites
- Total tanks removed (as of June 30, 2015)... 4,521 tanks

Petroleum Release Compensation Fund Case Trend



Petroleum Release Compensation Fund Case Trend

Future Trends:

All those tank systems that were mandated to be upgraded with new tanks in the 1990's have a 25-year design life/warranty period, so the cycle will begin repeating itself

The Petroleum Release Compensation Fund Process under the Regular Reimbursement Program –

see http://denr.sd.gov/dfta/prcf/prcfhome.aspx

Leaks are typically discovered during:

- Leak/repair of existing system
- Upgrade of system
- System closure assessment
- Utility work
- Property transfers/Financing

Reimbursement Process Steps

1. Release discovered
2. Assessment completed by licensed consultant – answers the question: *"Does the petroleum in the environment pose a risk to human health and the environment?"*
3. Corrective Action Plan developed by consultant
   a. If the assessment determined "No Risk" - corrective action is typically two years of verification monitoring
   b. If the assessment identifies a risk – corrective action is designed to eliminate risk and verified by monitoring
   c. Reimbursements begin once a Corrective Action Plan is approved and continue as cleanup is completed
4. Closure - a case can be reopened if additional eligible work occurs after closure – example: water line installation

Examples of Cases & Corrective Action for Reimbursement

Drilling/Sampling Wells





Typical Gas Station Case


Monitoring Well

Concrete Removed
Tanks Exposed

Tanks Removed

New Tanks Installed & Station Reopened

More Involved Corrective Action

Coffee Cup I-29 Vermillion Exit

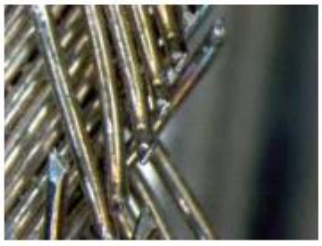
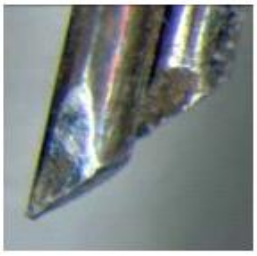
Vapors in Basement
Leaking Flex Connector

Product Recovery Well
Basement Vented

Remedial Excavation
New Water Line

Cause of Leak



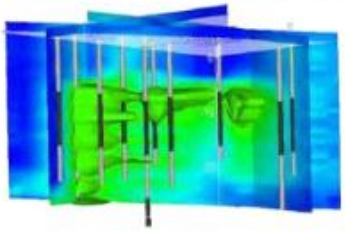



More Involved Corrective Action

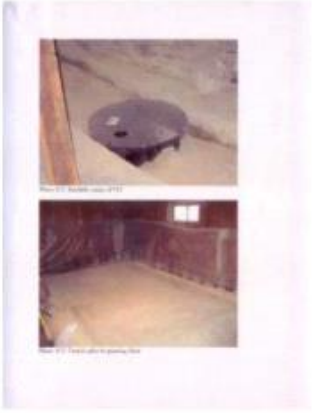
Former Steve's Amoco Watertown

Assessment



Ventilation Installed in Adjacent Home

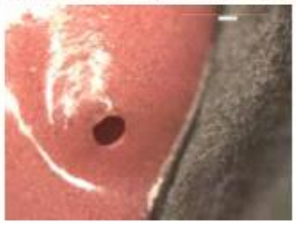
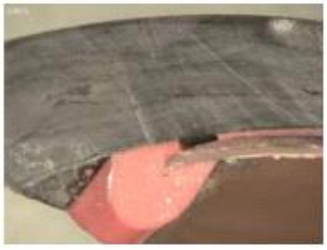



Petroleum Contaminated Groundwater Reached Big Sioux River Through Storm Sewer

Water & Sewer Lines Replaced With Petroleum Resistant Material

Cause of Leak



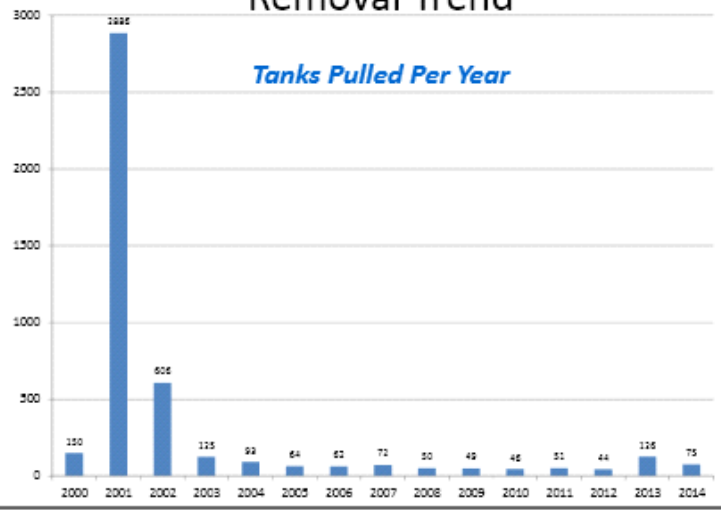
Abandoned Underground Storage Tank Removal Trend

- Abandoned Tank Project authorized by the 2000 Legislature to provide for the voluntary removal of petroleum tanks not used for commercial purposes after April 1, 1988
- This is a true pollution prevention program – get the tanks out before they rust and leak allowing sludge and residue to threaten neighbors property and pollute groundwater
- First big push to get tanks out was under Governor Janklow's *"Spruce Up"* program
- Since then, DENR uses the Petroleum Release Compensation Fund to remove 44 to 126 tanks per year

Why the Abandoned Tank Removal Program is Pro-Active?

- Approximately 19,000 cubic yards of petroleum-contaminated soils have been removed for proper disposal
- Over 1,000,000 gallons of petroleum and contaminated water have been removed
- 2,341 Clean and Closed Former Tank Sites
- 665 Sites with No Further Action status

Abandoned Underground Storage Tank Removal Trend



Where Have We Removed Tanks?

- 417 Tank Sites for City, County, and State Government, Including Over 150 for Public Schools
- 1017 Tank Sites for Commercial and Non-Profit Concerns
- 883 Tank Sites Were Residential
- 701 Tank Sites Were Farms or Ranches

What tanks are eligible?

- Abandoned petroleum tanks located at commercial operations taken out of service before April 1, 1988.
- Abandoned petroleum tanks located at non-retail operations.
- Heating fuel and used oil/waste oil tanks at any location.

What tanks are ineligible?

- Abandoned petroleum tanks used for retail fuel storage after April 1, 1988.
- In-accessible tanks.
- Properly abandoned tanks filled with an inert substance.
- Non-petroleum tanks.
- Aboveground tanks.

The Process Steps under the Abandoned Tank Removal Project -

see http://denr.sd.gov/des/gw/TankYank/Tank_Yank.aspx

1. Property owner fills out 1-page form
2. DENR staff investigate each site to determine tank contents and accessibility for excavation.
3. If tank is eligible, DENR groups tanks in same general area into a bid package
4. Contractors submit bids; DENR reviews bids and selects contractors
5. Tanks are removed by contractors under supervision of DENR staff or selected environmental consultants

The Process Steps under the Abandoned Tank Removal Project -

see http://denr.sd.gov/des/gw/TankYank/Tank_Yank.aspx

6. If petroleum contamination is present, site-specific risk assessment is performed
7. If potential risks exist, assessment and monitoring are performed as needed
8. Documented exposure pathways are managed through engineering controls or other remedial options
9. Site is closed

Abandoned Station in Midland

Large Tank in Belle Fourche

Tank Contents in Belle Fourche

Waste Disposal Difficulties in Belle Fourche

Used Oil Tank in Pierre

Hazardous Waste Collected in Pierre

Abandoned Gas Station in Hayes

Sewer Replacement in Hayes

Destroyed Sewer Piping in Hayes

Water Line Replacement Near Firesteel

Residential Property in Pierre

Public School Property in Sioux Falls

Commercial Property in Rapid City

Too Late For This Hand County Tank

Conclusion: The Petroleum Release Compensation Fund is a Critical Tool DENR uses to:

"Protect South Dakota's Tomorrow...Today!"